IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 749 of 2006

1. Ramesh Singh Chilwal @ Bombaiyya
   S/o Gopal Singh.
2. Kavita Chilwal
   W/o Ramesh Chilwal @ Bombaiyya
   Both R/o Pilkholi, Ranikhet,
   District Almora.

……. Applicant

Versus

State of Uttaranchal

….. Respondents

Mr. Navneet Kaushik, Advocate for the applicants.
Mr. Amit Bhatt, Asstt. Govt. Advocate for the State.

Hon'ble Prafulla C. Pant, J

Heard learned counsel for the parties.

2. Brief facts of the case are that petitioner No. 1 Ramesh Singh Chilwal @ Bombaiyya, a life convict, in criminal case No. 580 of 2004, relating to offences punishable under Section 302, 120-B of I.P.C., is in jail. He is also convicted under Section 3 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986. It appears that the District Magistrate, Nainital, exercising powers under Section 14 of said Act confiscated, after attachment, as many as 17 properties of the petitioner No. 1, holding that the same have been acquired by the convict from the money earned by illegal activities, covered under aforesaid Act.

3. It also appears that a reference was made under Section 16 of the U.P. Gangsters and Anti Social Activities (Prevention) Act, 1986, by petitioner No. 2 Kavita, wife of Ramesh Singh Chilwal @ Bombaiyya (convict) before the Special Judge / II Fast Tract Court, Nainital, against order dated 31.03.2005, passed by the District Magistrate, Nainital, confiscating the properties of petitioner No. 1. From the record it appears that the learned court recorded the evidence adduced on behalf of the petitioners in respect of each property to satisfy itself regarding the means by which the same were purchased. Out of the 17 properties confiscated, the court found that properties mentioned at item No. 1, 7 to 17 (in all 12 properties) were not found proved to have been purchased by the money earned by present petitioner No. 1 through his illegal activities, covered under the aforesaid Act, and released the same. However, in respect of the property No. 2 to 6 (in all five properties), the court was satisfied after recording the evidence, that these were purchased from the money earned through illegal activities by petitioner No. 1, and the petitioners could not show from where they got money to purchase these properties. Considering the same the court held that the satisfaction of the District Magistrate in respect of these five properties, did not deserve any interference.

4). This Court is not sitting in appeal against said order. In exercise of powers under Section 482 of the Code of Criminal Procedure, 1973, this Court cannot go into the factual satisfaction, recorded by the court below. The impugned judgment and order is detailed, and each item

has been dealt separately and reasons has been recorded, for its satisfaction, affirming and rejecting the satisfaction of the District Magistrate in respect of particular item.

5) In the above circumstances, this Court dose not find any error of law, which requires to be interfered with by this Court. Accordingly, the petition under Section 482 of the Code of Criminal Procedure, 1973 is, hereby dismissed, in limine, (Application No. 1542 of 2006 for interim stay also stands disposed of).

(Prafulla C. Pant, J.)

Dt. 21st September, 2006.
H.Negi